

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 260

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.3-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Monies from the pension relief fund shall be paid annually by the state board under the procedures specified in this section.

(b) Before April 1 of each year, each unit of local government must certify to the state board:

- (1) the amount of payments made during the preceding year for benefits under its pension funds covered by this chapter, referred to in this section as "pension payments";
- (2) the data determined necessary by the state board to perform an actuarial valuation of the unit's pension funds covered by this chapter; and
- (3) the names required to prepare the list specified in subsection (c).

A unit is ineligible to receive a distribution under this section if it does not supply before April 1 of each year (i) the complete information required by this subsection; or (ii) a substantial amount of the information required if it is accompanied by an affidavit of the chief executive officer of the unit detailing the steps which have been taken to obtain the information and the reasons the complete information has not been obtained. This subsection supersedes the reporting requirement of IC 5-10-1.5 as it applies to pension funds covered by



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this chapter.

(c) Before July 1 of each year, the state board shall prepare a list of all police officers and firefighters, active, retired, and deceased if their beneficiaries are eligible for benefits, who are members of a police or fire pension fund that was established before May 1, 1977. The list may not include police officers, firefighters, or their beneficiaries for whom no future benefits will be paid. The state board shall then compute the present value of the accrued liability to provide the pension and other benefits to each person on the list.

(d) Before July 1 of each year, the state board shall determine the total pension payments made by all units of local government for the preceding year and shall estimate the total pension payments to be made to all units in the calendar year in which the July 1 occurs **and in the following calendar year.**

(e) Each calendar year, the state board shall, ~~distribute to with respect to the following calendar year, determine for~~ each unit of local government ~~in two (2) equal installments on or before June 30 and on or before October 1,~~ an amount (D_y). **The state board shall, in two (2) equal installments before July 1 and before October 2, distribute to each eligible unit of local government the amount (D_y) determined for the unit with respect to the following calendar year. The amount (D_y) shall be determined by the following STEPS:**

STEP ONE. Subtract the total distribution made to units (D_{y-1}) in the preceding calendar year from the total pension payments made by units (P_{y-1}) in the preceding calendar year.

STEP TWO. Multiply the STEP ONE difference by $(1+k)$ as (k) is determined in STEP THREE.

STEP THREE. Determine the annual percentage increase (k) in the STEP ONE difference which will allow the present value of all future estimated distributions, as computed under STEP FOUR, from the pension relief fund to equal the "k portion" of the pension relief fund balance plus the present value of all future receipts to the "k portion" of the fund, but which will not allow the "k portion" of the pension relief fund balance to be negative. These present values shall be determined based on the current long term actuarial assumptions. The "k portion" of the pension relief fund balance is the total pension relief fund balance less the "m portion" of the fund. The percentage increase (k) shall be computed to the nearest one thousandth of one percent (.001%). All years, after the year 2000, in which the receipts to the fund plus the net pension payments by all the units equal or exceed the total pension payments shall be ignored for the purposes of these calculations.



STEP FOUR. Subtract the STEP TWO product from the estimated total pension payments to be made by all units (P_y) in the calendar year ~~in~~ **for** which the distribution is to be made.

STEP FIVE. Multiply the STEP FOUR difference by one-half ($1/2$) of the sum of two quotients, (1) the quotient of the unit's number of police officers and firefighters on December 31 of the year before the year of the distribution who are members of a pension fund established before May 1, 1977, who are retired, and who are deceased if their beneficiaries are eligible for benefits (unit) divided by the total number of these police officers and firefighters (total units) on December 31 of the year before the year of the distribution in all units plus (2) the quotient of the unit's pension payments (payments) divided by the total pension payments (total payments) by all units.

Expressed mathematically:

$$D_y = (P_y - ((P_{y-1} - D_{y-1}) \times (1 + k))) \times 1/2$$

(unit/(total unit) + payment/(total payment)).

(f) If in any year the distribution made to a unit of local government is larger than the unit's pension payments to its retirees and their beneficiaries for that year, the excess may not be distributed to the unit but must be transferred to the 1977 police officers' and firefighters' pension and disability fund and the unit's contributions to that fund shall be reduced for that year by the amount of the transfer.

(g) If in any year after 2000, the STEP FOUR difference under subsection (e) is smaller than the revenue to the pension relief fund in that year, then the revenue plus interest plus the fund balance in that year shall be used in STEP FIVE of subsection (e) instead of the STEP FOUR difference.

(h) The state board shall have its actuary report annually on the appropriateness of the actuarial assumptions used in determining the distribution amount under subsection (e). At least every five (5) years, the state board shall have its actuary recompute the value of (k) under STEP TWO of subsection (e).

(i) Each calendar year the state board shall determine the amounts to be allocated to the "m portion" of the pension relief fund under the following STEPS, which shall be completed before July 1 of each year:

STEP ONE. The state board shall determine the following:

(1) "Excess earnings", which are the state board's projection of earnings for the calendar year from investments of the "k portion" of the fund that exceed the amount of earnings that would have been earned if the rate of earnings was the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e).



(2) "Prior deficit amount", which is:

(A) the amount of earnings that would have been earned under the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e); minus

(B) the amount of earnings received;

for a calendar year after 1981 in which (B) is less than (A).

STEP TWO. The state board shall distribute to the "m portion" the excess earnings less any prior deficit amounts.

(j) The "m portion" of the fund shall be any direct allocations plus:

(1) amounts allocated under subsection (i); and

(2) any earnings on the "m portion" less amounts previously distributed under subsection (l).

(k) The state board shall determine, **based on actual experience and reasonable projections**, the units eligible for distribution from the "m portion" of the pension relief fund according to the following STEPS:

STEP ONE. Determine the amount of pension payments **to be** paid by the unit in the ~~preceding~~ calendar year, net of the amount of the distribution **to be** received by the unit under subsection (e) in that year, plus contributions **to be** made under IC 36-8-8 in that year.

STEP TWO. Divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the ~~preceding~~ calendar year.

STEP THREE. If the quotient determined under STEP TWO is equal to or greater than one-tenth (0.1), the unit shall receive a distribution under subsection (l).

(l) **For a calendar year, the state board shall**, before July 1 of ~~each the year, the state board shall~~ distribute from the "m portion" of the pension relief fund to the extent there are assets in the "m portion" to each eligible unit an amount, not less than zero (0), determined according to the following STEPS:

STEP ONE. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, determine the amount of pension payments paid by the unit in the calendar year two (2) years preceding the calendar year net of the amount of distributions received by the unit under subsection (e) in the calendar year two (2) years preceding the calendar year.

STEP TWO. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, divide the amount determined under STEP ONE by the amount of the maximum

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permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the calendar year two (2) years preceding the calendar year.

STEP THREE. For the first and all subsequent consecutive years that a unit is eligible to receive a distribution under this subsection, multiply the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the ~~preceding~~ calendar year by the quotient determined under STEP TWO.

STEP FOUR. Subtract the amount determined under STEP THREE from the amount of pension payments ~~to be~~ paid by the unit in the ~~preceding~~ calendar year, net of distributions ~~to be~~ received under subsection (e) for the ~~preceding~~ calendar year.

SECTION 2. IC 5-10.3-11-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.7. (a) In addition to the amounts distributed under sections 4 and 4.5 of this chapter, each year the state board shall distribute from the pension relief fund to each unit of local government an amount determined under the following STEPS:**

STEP ONE: Determine the amount of the total pension payments to be made by the unit in the calendar year, as estimated by the state board under section 4 of this chapter.

STEP TWO: Determine the result of:

(A) the STEP ONE result; multiplied by

(B) fifty percent (50%).

STEP THREE: Determine the amount to be distributed in the current calendar year to the unit of local government under section 4 of this chapter.

STEP FOUR: Determine the greater of zero (0) or the result of:

(A) the STEP TWO result; minus

(B) the STEP THREE result.

(b) The state board shall make the distributions under subsection (a) in two (2) equal installments before July 1 and before October 2 of each year.

(c) This section expires January 1, 2008.

SECTION 3. IC 5-10.3-11-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6. (a) The state board shall maintain separate accounts for each unit of local government for purposes of this section. The accounts:**

(1) are separate and distinct accounts within the public



employees' retirement fund and the pension relief fund; and (2) are not part of the "k portion" or "m portion" of the pension relief fund.

(b) A unit of local government may do the following:

(1) Make deposits at any time to the separate account established for the unit under this section.

(2) Withdraw once each year from the unit's separate account all or a part of the balance in the account to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 5-10.3-11 apply throughout this SECTION.

(b) Notwithstanding the amendments made to IC 5-10.3-11-4 by this act, in calendar year 2001, the state board shall make distributions from the pension relief fund to eligible units of local government both under IC 5-10.3-11-4, as in effect before amendment by this act, and under IC 5-10.3-11-4, as in effect after amendment by this act. However, the distributions to be made under IC 5-10.3-11-4, as in effect after amendment by this act, shall be made in one (1) installment before December 1, 2001. To the extent that a distribution under this SECTION is paid in November 2001 or in 2002, that distribution must be placed in the unit's account established by IC 5-10.3-11-6, as added by this act. Distributions made to an eligible unit and paid to the unit's account established by IC 5-10.3-11-6, as added by this act, under this SECTION:

(1) shall be treated as additional revenue for the purpose of fixing the eligible unit's budget for the calendar year during which an amount is paid to the eligible unit from its account under IC 5-10.3-11-6, as added by this act; and

(2) may not be used as a reason to reduce the eligible unit's maximum or actual property tax levy under IC 6-1.1-18.5.

(c) IC 5-10.3-11-4, as amended by this act, applies beginning with distributions that are determined and made in 2001. To comply with this subsection, the eligible unit must comply with all of the following:

(1) If the eligible unit used county adjusted gross income tax of county option income tax revenues in 1998 for total pension payments, the eligible unit must expend at least the same amount of county adjusted gross income tax of county option income tax in each year after 2000 and before 2008 for total pension payments.

(2) If the eligible unit used ad valorem property revenues in

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1998 for total pension payments, the eligible unit must expend at least the same amount of ad valorem property revenues in each year after 2000 and before 2008 for total pension payments.

(3) If the eligible unit used any other revenue in 1998 for total pension payments, the eligible unit must expend at least the same amount of other revenue in each year after 2000 and before 2008 for total pension payments.

If in any year the sum of the total local revenue that an eligible unit must expend under this subsection for total pension payments plus the total state distribution for which the eligible unit is eligible under section 4, 4.5 and 4.7 of this chapter exceed the eligible unit's total pension payment obligation, the state board shall reduce the distribution under section 4.7 of this chapter in the amount of the excess.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) In addition to any other distributions under IC 5-10.3-11, as amended by this act, in 2001 the board of trustees of the public employees' retirement fund shall distribute from the pension relief fund established by IC 5-10.3-11 to each unit of local government any amount determined under the following STEPS:

STEP ONE: Determine the amount of the total pension payments made by the unit of local government for each year after December 31, 1997, and before January 1, 2001, under IC 5-10.3-11-4(d).

STEP TWO: Determine the result of:

- (A) the STEP ONE result; multiplied by
- (B) fifty percent (50%).

STEP THREE: Determine the amount distributed under IC 5-10.3-11-4 for each year after December 31, 1997, and before January 1, 2001, to the unit of local government.

STEP FOUR: For each year, determine the greater of zero (0) or the result of:

- (A) the STEP TWO result; minus
- (B) the STEP THREE result.

(b) The state board shall make the distribution under subsection (a) before January 1, 2002.

(c) This SECTION expires July 1, 2002.

SECTION 6. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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